

Performance Based Contract Administration

Frequently Asked Questions

Start-up Processes & Procedures

Q. Does HUD expect the PBCA to have all staff on board at time of Readiness Assessment?

A. Generally speaking we would not expect the PBCA to be fully staffed at the time of the Readiness Check since additional contracts will likely be added to the PBCA's portfolio in months to come, however, we do expect the PBCA to have a staffing plan which would reflect the potential increase of their workload.

Q. Will HUD be doing a readiness assessment of the owners and managing agents?

A. No, this is a responsibility of the PBCA.

Q. What will be the extent and timing of HUD's interaction with the owners and managing agents of the projects prior to transfer?

A. Once the PBCA has signed their ACC and HUD's Headquarters office has been notified that the PBCA has passed their Readiness Check, owner/agent letters will be sent from Headquarters. The CAOM will receive a list containing the names of all owner/agents who received the letter and forward that to the PBCA. After HUD has sent the owner/agent letters, the PBCA may contact the owner/agent. In advance of the letters being sent, Headquarters encourages the Field Office staff to work with the PBCA and interested industry groups in arranging meetings with owner/agents to talk about the new initiative.

Q. Is it possible to include the names of PBCA subcontractors in the letters to the owners announcing the change in Section 8 Contract Administrator?

A. The Annual Contributions Contract that HUD signed, is between HUD and the PBCA. Therefore, the names of any subcontractors or any other entity will not be included in the notice to the owners. However, once the letters are sent, the PBCA may notify the owner of any private partnerships that exist and will be involved with the administration of the Section 8 contracts.

Assignments

Q. What types of Section 8 contracts are eligible to be assigned to the PBCA?

A. All Multifamily Section 8 project based contracts, including those processed under Title II and IV and portfolio reengineering contracts are eligible to be assigned to the PBCA with the following exceptions:

- Moderate Rehabilitation Contracts
- Project Assistance Contracts (PACs)

- Project Rental Assistance Contracts (PRACS)
- HUD-Owned
- Contracts in the foreclosure pipeline
- Project classified as Mortgagee-in-Possession (MIP)
- Contracts referred to Departmental Enforcement Center (DEC)
- Contracts referred to Office of Multifamily Housing Assistance
- Restructuring (OAHP)
- OHAP Watchlist Contracts
- Contracts where the owner had advised of the intent to opt-out
- Contracts expiring within 3 months of potential assignment
- Properties identified by the field office as troubled

Q. Who makes the decision whether or not a "troubled project" is assigned to the PBCA?

A. HUD will make a determination as to which contracts will be assigned to the PBCA. However, as a general rule troubled properties will not be transferred to the PBCA.

Management and Occupancy Reviews

Q. Are there exceptions allowed to the requirement that an MOR be conducted every twelve months for contracts assigned to the PBCA?

A. When a contract is assigned to the PBCA, the PBCA must conduct the initial MOR within 12 months from the date of contract assignment. However, with prior approval from the CAOM, the PBCA may revise the date and conduct an MOR after the 12-month period if there are extenuating circumstances beyond the PBCA's control.

Additionally, subsequent MORs may be conducted within 9-15 months of the last MOR, if there are extenuating circumstances. Examples of extenuating circumstances include such instances such as weather related issues, regional "groupings" of MORs, timing of multiple contract assignments for a given property etc.

Q. When conducting an MOR, what is the PBCA's follow up responsibility for REAC physical inspection deficiencies for EH&S and other noted discrepancies in the report?

A. According to guidance provided in the May 24, 2001, memorandum from Fred Tombar regarding "Revised Guidance for Oversight of Multifamily Housing Physical Inspections", the PBCA should use reasonable judgment to follow-up on a sample of EH&S and other deficiencies cited on the REAC physical inspection with a score of 60 and above. Occupied units may be included in the sampling, if necessary.

Q. What is the PBCA's responsibility for conducting an MOR on a property with multiple subsidy contracts?

A. The PBCA should conduct and issue one MOR report per property per year for properties with multiple subsidy contracts. The following criteria will be observed:

- The minimum file sample review will be based upon all project based Section 8 units assigned for the property at the time of the MOR in accordance with the ACC.
- PBCA monthly invoicing for MORs conducted on properties with multiple subsidy contracts will reflect the same MOR date for each assigned subsidy contract within a property providing the PBCA with full credit for conducting the MOR on the subsidy contract.
- The work plan will be revised accordingly and submitted to the CAOM for approval to reflect Section 8 project based contracts for a given property assigned to a PBCA in stages.

Q. What is the extent of the PBCA's review of each tenant file when conducting an MOR?

A. Existing guidance related to tenant file reviews do not specifically address the number of years of documentation the reviewer should assess. Therefore, in the interim, the PBCA will be responsible for reviewing the original documents in the tenant file for the initial move-in year and all information relevant for the current year. In the event an error is found in a specific tenant file, a full audit of that file should be conducted as far back as the documentation and problem exist.

Physical Inspections

Q. Who is responsible for performing physical inspections for contracts assigned to Performance Based Contract Administrators (PBCA)?

A. REAC or an agent for REAC is responsible for performing the physical inspections in accordance with the protocols created by REAC. The PBCA is responsible for follow-up and monitoring of the owners activity to correct any issues cited in the review.

Q. What is the PBCA's current responsibility for follow-up on REAC physical inspections (IBPS #16) for inspection scores of 60 and above?

A. As noted in the PB-ACC, further clarification is provided for follow-up on REAC physical inspections outlined in the May 24, 2001, memorandum from Fred Tombar, Subject: Revised Guidance for Oversight of Multifamily Housing Physical Inspections. PBCA's may obtain a copy of this memo by contacting the CAOM. HUD staff may view the memo posted on HUD's internal Intranet (not available through this public Internet) at the following URL:
http://hudatwork.hud.gov/po/h/hm/fog/docs/phyinsp_guide.pdf.

The policy as stated in the memorandum for inspection scores of 60 and above are as follows:

- The owner has been instructed to make required repairs indicated in the REAC inspection as part of their ongoing maintenance program.
- The PBCA should contact the owner following notification of an inspection where EH&S has been cited.

- The PBCA must confirm the notification in writing to the owner and update REMS. The owner has 72 hours to certify to the correction and mitigation of EH&S deficiencies.
- The PBCA should enter into REMS the date of receipt (or non-receipt) of the certification.
- Should an owner fail to correct or mitigate EH&S deficiencies within 72 hours, the PBCA should make every attempt to obtain compliance. If the owner does not comply, the PBCA should make note in REMS and notify the Hub/PC immediately.

Departmental Enforcement Center (DEC)

Q. When a property has been referred to the DEC, what is the contractual responsibility of the PBCA under the ACC?

A. Contracts that are assigned to a PBCA may subsequently have a property referral to the DEC and will require coordination of contract administration activities between HUD and the PBCA. The PBCA is responsible for a number of tasks that will require a determination from HUD prior to performance of the task. The CAOM will serve as the point of contact for the PBCA on all matters pertaining to MORs, contract rent adjustments, HAP contract renewals, and follow-up on the results of a REAC physical inspection. The PBCA should contact the CAOM if any of the aforementioned IBPS tasks are scheduled or submitted to the PBCA for processing. The CAOM will contact the DEC for direction on whether to act on any of the above IBPS tasks and communicate the decision to the PBCA.

OAHP Office of Affordable Housing Preservation (formerly OHMAR)

Q. If a project is assigned to the PBCA, then subsequently referred to OAHP, is servicing of this project returned to HUD field office staff or does it remain with the PBCA?

A. The PBCA will continue to oversee the Section 8 Contract Administration. All communication with OAHP will flow through the field office. Any information provided to the HUD field office by OAHP will be sent to the PBCA as applicable.

Watch List

Q. What are the responsibilities of the PBCA for "watch list" properties?

A. The PBCA will be responsible for the tasks listed below for "watch list" properties as a further clarification to the guidance issued on September 27, 2001, memorandum from Fred Tombar and Ira Peppercorn titled, "Revised Guidance on Monitoring OMHAR Watch List Properties":

- a. Review, verify and authorize monthly Section 8 voucher payments (IBPS 6);
- b. Notify owner of any corrective action needed relative to the voucher review process (IBPS 7)

- c. Respond to life threatening and non-life threatening health and safety issues (IBPS 9 and 10 respectively);
- d. Prepare and submit Section 8 Budgets and Requisitions for each HAP contract (IBPS 11);
- e) Complete year-end statement and annual audit (IBPS 12 and 13 respectively); and
- f) Prepare general reporting per the Annual Contributions Contract (IBPS 15).

All remaining tasks stated in the ACC become the responsibility of the Senior Project Manager in the respective field office until the property's designation is changed. Continued coordination between the PBCA and the field office is essential.

Accounts

Q. Should the fidelity bond cover the net amount or gross amount of the HAP?

A. The amount of the Fidelity Bond should be sufficient to cover the maximum possible monthly Housing Assistance Payments (HAPs) that can be received by the PBCA once the PBCA starts making HAPs to the owners. Debt service offsets are not received by the PBCA and therefore need not be covered by the Fidelity Bond. Payments for a given month may significantly exceed the normally vouchered amounts. This can be caused by factors such as special rent adjustments and retroactive vouchers for several months resulting from the owners' failure to submit past vouchers or delayed contract increases or renewals resulting from a lack of HUD funding or other processing delays. PBCA should increase the "normal" coverage of one months "net" payments by an amount that gives them comfort in discharging their fiduciary responsibilities. Also, as additional Housing Assistance Payments Contracts (HAPCs) are assigned, the Fidelity Bond must be increased before the PBCA begins making HAPs for the added contracts.

Q. What is the Performance Based Contract Administrator's (PBCA) responsibility for monitoring the Reserve for Replacement Account?

A. Monitoring the Reserve for Replacement Account is the responsibility of HUD since this is considered an FHA related activity. The purpose of the account is to provide for periodic replacement of physical components of the property. These replacements preserve the asset as collateral for the mortgage. However, when the PBCA processes a AAF, the contractor will calculate the new monthly deposit amount and forward the information to HUD for processing the HUD-9250. In addition, when a budget based rent increase is submitted and an increase to the monthly deposit has been requested, the contractor will review the request to ensure the documentation submitted supports the increase in the month deposit. Once approved the information is submitted to HUD for processing the HUD-9250.

Q. What is HUD's policy regarding co-mingling of funds received by Performance Based Contract Administrators (PBCA) from HUD for the payment of Housing Assistance Payments to the owner and administrative fees earned?

A. PBCAs must establish separate depository accounts for administrative fees earned and monies received for the payment of Housing Assistance Contracts. Once administrative fees have been received by the PBCA, the funds are the property of the

contract administrator. Funds received for Housing Assistance Payments may be placed in one central account, however these funds must be accounted for separately and only applied to the applicable contract upon payment to the owner.

Q. For Section 202/811 properties, will HUD deduct debt service payments before funds are sent to the CA?

A. HUD will deduct debt service payments automatically once the voucher payment has been entered into LOCCS (Line of Credit Control System). The mortgage offset or debt service amount will reduce the amount of the HAP payment to the PBCA. All 202/811 offsets can be viewed in the Portfolio Offset screen in LOCCS.

Q. Who is responsible for paying servicing fees assessed by banking institutions for servicing the HAP accounts established by the PBCA?

A. Any fees and or expenses incurred by the PBCA as a result of performing the tasks set forth in the PB-ACC are considered costs of doing business and should be paid from the PBCA's operating account. In addition, any costs incurred cannot be applied against any interest earned on Section 8 funds. Reference the PB-ACC, paragraph 11, Management Requirements, which states that the CA is required to provide all services, materials etc. without compensation or reimbursement other than the administrative fee.

Appeals

Q. What is the appeal process for Owners who disagree with the PBCA's decision concerning a Rent Comparability Study (RCS)?

A. The process of Owner Appeals is addressed in Chapter 9 of the Section 8 Policy Renewal Guidebook. Chapter 9, Section 9-21 describes the process, obligations, and time frames for the owner and HUD/CA. If the PBCA finds the RCS deficient, the PBCA will notify the owner in writing of the outstanding issues, allowing for a revised submission. If the resubmitted RCS remains flawed, the PBCA will notify the owner in writing that the RCS is rejected. Owners objecting to the decision of the PBCA can submit their appeal of the RCS to the Hub Director. If the Hub Director determines that the appeal has merit he may issue a short-term renewal to allow the appeal time to proceed. (See Chapter 9, Section 9-21 A-D for an in-depth discussion of the process.) Throughout Section 9-21, the Program Center Director is referenced without identifying the appropriate PBCA counterpart. To clarify, for the PBCA, the staff designation equivalent to the Program Center Director is the PBCA Director.

Systems

Q. What process should the PBCA follow to establish a TRACS Baseline Certification?

A. The TRACS Baseline Certification procedures are found at the following website, under "Documents." <http://www.hud.gov/offices/hsg/mfh/rfp/docs/baselinecert.pdf> The PBCA should follow the three-month cycle outlined to submit or maintain a baseline in TRACS as part of their start-up procedure.

Q. What is the multifamily help desk systems number?

A. The multifamily help desk systems number is 1-800-767-7588. The help desk supports TRACS, REMS, DAP and MDDR. The hours of operation is Monday thru Friday 9am til 8pm EST.

Q. What fiscal year should be used when the PBCA enters the budget into LOCCS?

A. The PBCA should use their (PHA) fiscal year when entering budgets into LOCCS, not the ACC fiscal year.

Q. Will the PBCA have systems access to physical inspection reports and financial statement information?

A. Yes, the PBCA will receive access. The PBCA user must be assigned to one or more contracts associated with the property and are assigned a REMS PBCA role.

Q. What are the correct event tracking date entries for REMS to record the date of owner notification of EH&S deficiencies and the date owner mitigated the EH&S deficiencies?

A. The correct data entry references are as follows:

- Owner notified of Outstanding EH&S Deficiencies

PBCA should enter the date they called the owner to advise of the EH&S deficiencies

- Owner confirmed that EH&S Deficiencies have been mitigated

PBCA should enter the date the owner signed the certification

Audits

Q. What is the policy on archiving of PBCA program records?

A. All program records must be kept by the PBCA for three years. During the three-year period, the PBCA can maintain the storage of the records as they determine to be appropriate, i.e. on site or in a storage area. The three-year period is consistent with the archiving requirements according to HUD Handbook 4350.5, Contract Administration, for non-performance based ACC. During the three-year period, HUD reserves the right to request documents that the PBCA may have available and which HUD determines to be critical to retain by HUD. Section 12 of the PB-ACC provides general guidelines for the maintenance of program records.

Q. Who should auditors contact to verify the amount of Section 8 funds the owner received for period under review for the annual financial statement audit?

A. This depends on who was paying the owner for the period of time under review by the auditor. If the contract was assigned to a PBCA, the PBCA can provide the auditor with a full accounting of payments made to the owner once the payment cut over date is set. The auditor will have to contact Ft. Worth Accounting Center for any payments prior to that period.

General/Miscellaneous

Q. What is the Performance Based Contract Administrator's (PBCA) responsibility with respect to the payment of Rent Supplement and Rental Assistance Payments?

A. The PBCA is only responsible for payment of Section 8 Housing Assistance Payments. Owners of properties with Rent Supplement or Rent Assistance Payment subsidies will continue to submit the voucher separately to TRACS for payment.

Q. In what capacity will the PBCA work with the Multifamily Hub Office and their Program Centers?

A. The PBCA's first line of contact is always the Contract Administration Oversight Monitor (CAOM) in the Multifamily HUB for ACC contract related issues. The PBCA will submit their monthly invoices, yearly work-plans, etc, directly to the CAOM. For project related information, the PBCA should contact the project manager responsible for that property.

Q. What is the fiscal year of the Section 8 Contracts?

A. There is no fiscal year for Section 8 contracts, however there is a contract term. The term or length of the contract is specified in the contract as well as the specific effective dates.

Q. When will the CA be responsible for handling special claims?

A. The CA will not be responsible for handling Special Claims until they have begun making HAP payments to the O/A. Once they have begun making the payments then the CA will be responsible for handling the Special Claims.

Q. Can the Performance Based Contract Administrator (PBCA) realign their Annual Contributions Contract (ACC) term to coincide with their fiscal year?

A. No. This realignment would be in violation of the ACC and therefore cannot be approved. The term of the ACC is defined as three years from the "start date", in other words, the first day of the month in which HUD assigns contracts to the PBCA. The payment year also begins on the "start date". The ACC also provides that "Each month, HUD will evaluate the PHA's performance in providing contract administration services for all covered units under the ACC to determine the amount of earned incentive fees paid quarterly". Therefore, any adjustment of the payment year to conform to the PBCA's fiscal year would result in certain payments approved for less than a quarterly period and would be in noncompliance with the ACC.

Q. Who is responsible for processing requests to increase the meal charges under the mandatory meals program, the PBCA or HUD?

A. The mandatory meals program is guided by the language in 24 CFR 278 and is not tied directly to the Section 8 program but to the insurance although the charges must be included in the lease. HUD will be responsible for processing requests for increases to the mandatory meals program since the meals program is considered a stand-alone operation within the property, must be self-supporting and cannot utilize any Section 8 funds.